SUPPLEMENTAL TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1962

No. 35

EDWARD YELLIN, PETITIONER

vs.

UNITED STATES

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

PETITION FOR CERTIORARI FILED MAY 31, 1962
CERTIORARI GRANTED OCTOBER 8, 1962

Supreme Court of the United States

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IN THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

SEPTEMBER TERM, 1960—JANUARY SESSION, 1961

No. 13097

UNITED STATES OF AMERICA, PLAINTIFF-APPELLEE

v.

EDWARD YELLIN, DEFENDANT-APPELLANT

Appeal from the United States District Court
for the Northern District of Indiana,
Hammond Division

OPINION—February 16, 1961

Before SCHNACKENBERG, KNOCH and CASTLE, *Circuit Judges.*

KNOCH, *Circuit Judge.* Defendant was indicted in five counts for the offense of contempt of Congress, in violation of Title 2, U. S. C., § 192,[1] in willfully refusing to answer questions pertinent to the subject then under inquiry[2] by the House of Representatives' Committee on

[1] "Every person who, having been summoned as a witness by the authority of either House of Congress to give testimony or to produce papers upon any matter under inquiry before either House, or any joint committee established by a joint or concurrent resolution of the two Houses of Congress, or any committee of either House of Congress, willfully makes default, or who, having appeared, refuses to answer any question pertinent to the question under inquiry, shall be deemed guilty of a misdemeanor, punishable by a fine of not more than $1000 nor less than $100 and imprisonment in a common jail for not less than one month nor more than twelve months."

[2] As stated in the indictment, the subject under inquiry was: ". . . to-wit: The extent, character, and objects of Communist infiltration and Communist Party propaganda activities in basic industry in the Gary, Indiana, area, and the execution by administrative agencies concerned of Public Law 637, of the 83rd Con-

[fol. 301] Un-American activities. Each count alleged refusal to answer a single question. The fifth count was dismissed on motion of the government. Counts I to IV inclusive, listed the following questions:

"I. Mr. Yellin, where did you reside prior to September 1957?

II. Will you tell the committee, please, whether or not incidents came to your attention of the colonization of the steel unions in Gary by the Communist Party at any time prior to September 1957?

III. Were you a member of the Communist Party on the 23d of June, 1949, which is the date of application filed in your name for employment in Gary?

IV. Will you tell the committee whether or not in 1957 there were present in any of the steel unions at Gary, Indiana, persons who were known to you to have been colonizers of the Communist Party?"

Defendant waived jury trial. The District Court found him guilty as charged in Counts I to IV, inclusive, and imposed concurrent sentences of one year on each count, plus a fine of $250. Defendant took this appeal.

Defendant argues that he was subpoenaed to testify in February, 1958, a few months after the United States Supreme Court had decided *Watkins* v. *United States*, 354 U.S. 178 (June, 1957), and that, relying on *Watkins*, he believed that he was not required to answer the questions put to him. Therefore, he contends that he cannot be said to have had the requisite criminal intent to support conviction. He further contends that:

> "Rule XI of the House Rules, which defines the jurisdiction of the House Committee on Un-American activities, is so unclear on its face that it cannot support a criminal charge."

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gress known as the Communist Control Act of 1954, relating to the eligibility to exercise the rights and privileges provided under the National Labor Relations Act of labor organizations determined by the Subversive Activities Control Board to be Communist-infiltrated organizations."

The pertinent portions of the Rule read:

"17. Committee on Un-American Activities. * * *

"(b) The Committee on Un-American Activities, as a whole or by subcommittee, is authorized to make [fol. 392] from time to time investigations of (1) the extent, character, and objects of un-American propaganda activities in the United States, (2) the diffusion within the United States of subversive and un-American propaganda that is instigated from foreign countries or of a domestic origin and attacks the principle of the form of government as guaranteed by our Constitution, and (3) all other questions in relation thereto that would aid Congress in any necessary remedial legislation.

"The Committee on Un-American Activities shall report to the House (or to the Clerk of the House if the House is not in session) the results of any such investigation, together with such recommendations as it deems advisable.

"For the purpose of any such investigation, the Committee on Un-American Activities, or any subcommittee thereof, is authorized to sit and act at such times and places within the United States, whether or not the House is sitting, has recessed, or has adjourned, to hold such hearings, to require the attendance of such witnesses and the production of such books, papers, and documents, and to take such testimony, as it deems necessary. Subpenas may be issued under the signature of the chairman of the committee or any subcommittee, or by any member designated by any such chairman, and may be served by any person designated by any such chairman or member. * * *

"26. To assist the House in appraising the administration of the laws and in developing such amendments or related legislation as it may deem necessary, each standing committee of the House shall exercise continuous watchfulness of the execution by the administrative agencies concerned of any laws, the subject matter of which is within the jurisdiction of such

committee; and, for that purpose, shall study all pertinent reports and data submitted to the House by the agencies in the executive branch of the Government."

On January 15, 1958, the Committee had adopted a resolution to hold hearings in Gary, Indiana. Under [fol. 303] authority of an earlier resolution, January 22, 1957, Chairman Francis E. Walter designated a three-man subcommittee, with himself as its Chairman, to conduct hearings in Gary on February 10 and 11, 1958.

Defendant makes a point of the fact that the U. S. Supreme Court did not decide *Barenblatt* v. *United States*, 360 U. S. 109 (1959) until after his refusal to answer the subcommittee's questions. In *Barenblatt*, the Supreme Court had held that the House Committee on Un-American Activities and its subcommittees were authorized by compulsory process to investigate Communist activities in this country, and that the record there, (as in the case before us) refuted the contention that the defendant was not adequately apprised of the pertinency of the subcommittee's questions to the subject matter of the inquiry. We do not agree with defendant that *Barenblatt* modified the earlier holding in *Watkins*. The facts differed. In distinguishing *Watkins*, the Supreme Court states in *Barenblatt*, at page 123:

> "[A]nd the questions asked the petitioner were not only amorphous on their face, but in some instances clearly foreign to the alleged subject matter of the investigation— . . ."

Defendant quotes from *Barenblatt*, at page 126, that:

> "Where First Amendment rights are asserted to bar governmental interrogation, resolution of the 'issue always involves a balancing by the courts of the competing private and public interests at stake in the particular circumstances shown."

Defendant argues that he was, therefore, entitled to introduce testimony relating to such balance of interests in the circumstances shown here. Defendant called Professor Thomas I. Emerson, Professor of Law at Yale Uni-

versity, to testify as an expert on the issue of balancing the public and private interests in this case. The District Court sustained the government's objection that this constituted opinion evidence on matters of law and invaded the province of the Court. Aside from the rejected testimony, defendant argues that there was little value to the testimony sought to be elicited from him; that it was solely cumulative in nature, the subcommittee having taken much [fol. 304] evidence on this subject in other areas; and that it was insufficient to outbalance the defendant's substantial rights under the First Amendment to the Constitution.

Rule IV-A (1) of the Committee's Rules of Procedure provides:

> "If a majority of the Committee or Subcommittee, duly appointed as provided by the rules of the House of Representatives, believes that the interrogation of a witness in a public hearing might endanger national security or unjustly injure his reputation, or the reputation of other individuals, the Committee shall interrogate such witness in an Executive Session for the purpose of determining the necessity or advisability of conducting such interrogation thereafter in a public hearing."

Defendant's counsel, under date of February 6, 1958, had sent a telegram to Frank Tavenner, the Committee's counsel, at Washington, D.C., requesting:

> "[E]xecutive session in lieu of open session, testimony needed for legislative purposes . . . can be secured in executive session without exposing witnesses to publicity."

Mr. Tavenner testified in the District Court that he was no longer in Washington when the telegram arrived, having already left for Gary. The Staff Director, Richard Arens, on February 6, 1958, sent defendant's counsel an answering telegram advising him that his request was denied. The Chairman, Congressman Walter, at the hearing on February 10, 1958, refused to allow defendant's counsel to read the two telegrams into the record, al-

though he did state that their inclusion in the record would be considered in executive session. Both telegrams are a part of the record before us. Defendant characterizes these actions of the Committee as a failure to adhere to its own rules, which excused defendant's refusal to answer questions in public session.

Defendant further contends that the questions set out in Counts II and IV are too vague to support an indictment, and that the Committee has in fact no genuine legislative purpose.

[fol. 305] Defendant sees the contested issues as:

"1. Was appellant guilty of a willful violation of 2 U.S.C. 192?

2. Did the District Court err in refusing to admit the proferred testimony of Professor Thomas I. Emerson?

3. On this record, does the public interest in securing answers to the questions put to appellant outweigh his interest in protecting his rights under the First Amendment?

4. Did the Committee violate its own rules in refusing to grant or to consider appellant's request for an executive session?

5. Were the questions contained in Counts 2 and 4 too vague to support a criminal indictment?

6. Does the House Committee on Un-American Activities have a genuine legislative purpose?"

The record shows that at the opening of the proceedings in Gary, on February 10, 1958, the Chairman, Congressman Walter, stated the purpose of the hearing, as set out in the resolution of January 15, 1958, to inquire into:

> "1. The extent, character and objects of Communist infiltration and Communist Party propaganda activities in basic industry in the Gary, Indiana area, the legislative purpose being to obtain additional information for use by the Committee in its consideration of Section 16 of H.R. 9352, relating to the proposed amendment of Section 4 of the Communist Control Act of 1954, prescribing a penalty for knowingly

and willfully becoming or remaining a member of the Communist Party with knowledge of the purpose or objective thereof, and for the additional legislative purpose of adding to the Committee's overall knowledge on the subject, so that Congress may be kept informed and thus prepared to enact remedial legislation in the national defense and for internal security, when and if the exigencies of the situation require it.

[fol. 306] "2. Execution by administrative agencies concerned of Public Law 637 of the 83d Congress known as the 'Communist Control Act of 1954', relating to the eligibility to exercise the rights and privileges provided under the National Labor Relations Act of labor organizations determined by the Subversive Activities Control Board to be Communist-infiltrated organizations. The legislative purpose is to assist Congress in appraising the administration of the Communist Control Act of 1954, and to enact such amendments thereto as the exigencies of the situation require."

The Chairman then explained, in detail, about the Omnibus Security Bill, H.R. 9352, a comprehensive effort to deal with all problems in the field of internal security, and the hope of the Committee that factual information obtained at this hearing would be of assistance in consideration of the numerous provisions of that Bill. He explained further that information was particularly sought for use in connection with the proposed amendment of Section 4 of the Communist Control Act of 1954, prescribing a penalty for knowingly and willingly becoming or remaining a member of the Communist Party with knowledge of its purpose or objective; thus clearly setting out a genuine legislative purpose. Defendant at the hearing February 10, 1958, testified that he had heard this statement by the Chairman, and that he heard the testimony of John Lautner, the witness who preceded the defendant at the February 10th hearing. Mr. Lautner had testified that he was a high functionary in the Communist Party from 1930 to 1950. He described a policy of colonization in basic industries to penetrate trade unions, whereby colonizers, who were frequently undergraduate college students, would misrepresent their identity, background and educa-

tion, in order to operate in various different areas under differing aliases.

When defendant refused to answer the question: "Where did you reside prior to September 1957?" stating his reliance on *Watkins*, Mr. Tavenner explained further that it would be impossible for the Committee to learn anything from defendant regarding Communist Party activities in the Gary area, without first ascertaining whether defendant had been in the area for a period of time. Having explained the basis for the question, Mr. Tavenner then asked the Chairman to direct defendant to answer. Defendant again refused to answer.

[fol. 307] Evidence was introduced regarding defendant's college education and an application for employment made in defendant's name, which not only failed to set out the college education (in possible conformity to the policy outlined by Mr. Lautner) but which stated that the defendant had been employed at certain automobile establishments during the very periods that other records showed him to have been attending the University of Michigan. Defendant refused to answer any questions pertaining to his application for employment, his education, or his background. Mr. Tavenner explained, again in vain, about the practice of the Communist Party in colonizing industry, and the Committee's need to understand the full tactics of operations in Gary, which constituted the reason for the questions.

In his testimony at the trial, Mr. Tavenner testified that it was the practice of the Committee to interview witnesses, prior to subpoena, to determine whether they had information of value. He testified further that the Committee already had evidence which led them to believe that the defendant had been a member of the Communist Party at the University of Michigan, that he had been transferred there from New York City, and then to Gary to secure employment in the steel plants, and that he had been engaged in Communist Party activity while so employed. On the basis of this information, the Committee was already satisfied, without prior interview, that defendant could, if willing, supply the Committee a great deal of data regarding infiltration of the steel industry and plans for colonization there in the Gary area.

Defendant's reliance on *Watkins* is misplaced. Watkins' testimony was characterized in the government's brief in that case as:

> "A more complete and candid statement of his past political associations and activities (treating the Communist Party for present purposes as a mere political party) can hardly be imagined."

He agreed to answer any questions about himself, but he believed questions about other persons who had removed themselves from the Communist movement to be irrelevant to the work of the Committee. The Supreme Court in *Watkins* said, at page 209:

[fol. 308] "There are several sources than can outline the 'question under inquiry' in such a way that the rules against vagueness are satisfied. The authorizing resolution, the remarks of the chairman or members of the committee, or even the nature of the proceedings themselves, might sometimes make the topic clear."

Unlike those in the *Watkins* case, the proceedings here clearly indicated through detailed, explanatory statements and prior testimony, the precise nature of the inquiry and the pertinency of the questions which defendant was asked.

Defendant's mistaken reliance on *Watkins* as a basis for refusal to testify does not rob that refusal of willfulness. His refusal was deliberate. The fact that he thought he had a right to refuse made his deliberate refusal no less willful. In *Sinclair v. United States*, 279 U. S. 263, 299 (1929) the fact that the accused acted in good faith on advice of competent counsel in refusing to answer a question was held not to be a defense.

The proffered expert testimony of Professor Emerson on the issue of the balance between public and private interests in this case is a part of the record before us. We have carefully read Professor Emerson's statement of the elements to be considered and the weight he assigned to each. He concluded that the interest of the government in obtaining answers from the defendant was outweighed by the defendant's interest in freedom of

speech or silence and by the community's interest in maintaining freedom of political expression.

We are compelled to agree with the District Judge who stated:

> "[I]t seems to me that expert testimony of this kind is not material in that it is not a question of fact as to what elements go to make up the balance of interests, public and private, but a legal matter, which is within the province of the Court to decide; and it is not a subject of expert testimony."

In oral argument, defendant's counsel conceded that the questions put to defendant had a logical relationship to the subject under inquiry and were pertinent in that sense. [fol. 309] He argued, however, that as mere cumulative evidence, the testimony sought from defendant had only miniscule pertinence, when balanced against defendant's private right of silence. We cannot agree. On the record before us, there was substantial basis for the District Court's conclusion that the balance here was in favor of the public interest.

Apart from the fact that the defendant has nowhere shown a danger to national security, or unjust injury to his reputation or that of others, in a public interrogation, our reading of Rule IV-A leads us to conclude that it confers no rights on the witness. If a majority of the Committee or subcommittee believe public interrogation of a witness might endanger national security or unjustly injure his reputation, or the reputation of others, then such witness shall be interrogated in executive session to determine the advisability of subsequent public interrogation. No provision is made for the witness to compel the Committee to poll its members on this question with respect to any specific witness.

With respect to Counts II and IV, defendant contends that the issue is not whether he understood the meaning of the questions, but whether the terminology is so vague that it fails to meet the requirements of the Sixth Amendment or of Rule 7(c) of the Federal Rules of Criminal Procedure.

As the sentences imposed here are to run concurrently, it is sufficient to support the judgment of the Court below if conviction on any count is affirmed. However, we have studied these two counts and conclude that they do meet the test.

All other arguments put forth by the defendant have been considered with care and found to be lacking in merit.

The judgment of the District Court is AFFIRMED.

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[fol. 310]

IN UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

* * *

Before

Hon. ELMER J. SCHNACKENBERG, *Circuit Judge*
Hon. WIN G. KNOCH, *Circuit Judge*
Hon. LATHAM CASTLE, *Circuit Judge*

No. 13097

UNITED STATES OF AMERICA, PLAINTIFF-APPELLEE

vs.

EDWARD YELLIN, DEFENDANT-APPELLANT

Appeal from the United States District Court
for the Northern District of Indiana,
Hammond Division

JUDGMENT—February 16, 1961

This cause came on to be heard on the transcript of the record from the United States District Court for the Northern District of Indiana, Hammond Division, and was argued by counsel.

On consideration whereof, it is ordered and adjudged by this court that the judgment of the said District Court in this cause appealed from be, and the same is hereby, AFFIRMED, in accordance with the opinion of this Court filed this day.

[fol. 311] [File endorsement omitted]

[fol. 312]

IN UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

Cause No. 13097

UNITED STATES OF AMERICA, PLAINTIFF-APPELLEE

v.

EDWARD YELLIN, DEFENDANT-APPELLANT

PETITION FOR REHEARING—Filed March 3, 1961

Pursuant to Rule 25 of the Rules of this Court, appellant hereby petitions for a rehearing of the decision of this Court affirming the conviction of appellant by the District Court for the Northern District of Indiana on an indictment charging a contempt of Congress in violation of 2 U. S. C. § 192.

Rehearing is sought for the following reasons:

1. In holding that Rule IV A(1) of the Rules of Procedure of the House Committee on Un-American Activities confers no rights on a witness, this Court overlooked the testimony of committee counsel to the contrary.

2. In holding the testimony of Professor Emerson inadmissible on the issue of the balance between private and public interests, this Court misunderstood appellant's argument and overlooked the language of the Supreme Court in the *Barenblatt* case.

[fol. 313] 3. In holding that the Committee had a genuine legislative purpose, this Court overlooked the evidence to the contrary and relied instead on the Committee's self-serving statement as to its purpose.

4. The Court overlooked appellant's argument that § 192 as here applied was unconstitutionally vague, its meaning being ascertainable only through an examination of its legislative history.

POINT I

RULE IV-A(1) OF THE HOUSE COMMITTEE ON UN-AMERICAN ACTIVITIES CONFERS RIGHTS ON THE WITNESS

Frank S. Tavenner, Jr., counsel to the House Committee, testified at the trial for the Government. On

cross-examination, he was questioned as to the applicability of Rule XI(m) of the Rules of the House of Representatives and Rule IV-A of the Rules of the Committee. He testified that the former rule was not intended to protect witnesses; however, as to Rule IV-A, he testified as follows:

> "Q. . . . Are you familiar with that rule?
>
> A. Quite familiar with it.
>
> Q. And does that rule operate ever for the protection of a witness who is called?
>
> A. Certainly.
>
> Q. Did the Committee consider at all the applicability of that rule to the request I made on behalf of Mr. Yellin?
>
> A. It was not discussed with the Committee." (S.M. 94, 95).

[fol. 314] Indeed, the rule itself on its face provides protection for the witness for it refers to "interrogation of a witness in a public hearing [which] might . . . unjustly injure his reputation." Furthermore, the background out of which the rule arose would make it doubly clear that it was intended for the protection of the witness. The record of public outcry against the arbitrary conduct of this Committee is too lengthy to set forth here. Much of the written material on the subject, at least up to 1953, can be found in the Hearings before the Subcommittee on Legislative Procedure of the House Committee on Rules, 83rd Cong., 2nd Sess., where extensive testimony was taken in an effort to reform the rules of the House and of its committees and to provide adequate protection for witnesses. Indeed, it was in response to this criticism that these rules were adopted in the first place.

Reading the rules in this framework, it must have been clear to the Committee that the public interrogation of appellant might well have resulted in injury to his reputation. He was to be called upon to admit or deny his membership in the Communist Party and such inquiry almost always results in injury. In any event, under the rules intended for his protection, he was entitled, at the

very least, to have his request considered by the Committee. This was not done.

[fol. 315] POINT II

THE TESTIMONY OF PROFESSOR EMERSON SHOULD HAVE BEEN ADMITTED

This Court quotes with approval the language of the District Court that "It is not a question of fact as to what elements go to make up the balance of interests, public and private, but a legal matter, which is within the province of the Court to decide" (Slip Opinion, p. 9). This seems to be not only at variance with the language of the Supreme Court in *Barenblatt* v. *United States*, 360 U. S. 109, but at variance with the requirements of the Constitution as well.

In the *Barenblatt* case, the Court spoke of balancing "the competing private and public interests at stake *in the particular circumstances shown*" (360 U. S. at 125; emphasis supplied). The particular circumstances obviously relate to facts, not to matters of law. Indeed, serious consideration of the issues before the Court in this regard will make it clear that any other holding would be at variance with the Constitution. The Court is here being called upon to determine whether a man is guilty of a criminal offense. In this setting, the United States Supreme Court has held that the Committee's right to require an answer to a question depends on a balancing of public and private interests in each case. Obviously the Court could not have intended in the Barenblatt case to hold that, forever and ever, under all possible circum-[fol. 316] stances, the Committee had the right to ask the questions before the Court in the *Yellin* case.

Whether the Committee had such right will depend on the facts of each case and it was for the purpose of supplying such facts that the testimony of Professor Emerson was admissible. We do not know how else a Court can determine factual matters except by the presentation of evidence.

Furthermore, the Court failed to consider the whole of appellant's argument. It is not only the rejected testimony offered by Professor Emerson which provides a

defense for appellant. Even without his testimony we respectfully urge that on this record the balance between competing public and private interests would bar the questions which are the subject of this indictment.

We shall not attempt to discuss our argument in full at this point; we respectfully refer the Court to Point IV of appellant's brief, at pages 29 to 32.

Point III

The Statute as Here Applied Required Examination of Extensive Legislative History to Ascertain Its Meanings to Convict Appellant on Such a Statute Is a Violation of the Fifth Amendment

The resolution under which the Committee was investigating gave the Committee the right to investigate "Un-American propaganda activities." The instant investiga- [fol. 317] tion was not so limited. It actually made inquiry into Communist activities in general and, at first blush, it would thus seem that the Committee had exceeded its authority (*cf. United States* v. *Rumely*, 345 U. S. 41).

In the *Barenblatt* case, however, the Supreme Court held that the legislative history of the resolution justified a reading of the phrase "Un-American propaganda activities" to mean the much broader field of Communist Party activities of any description. This conclusion was reached only after extensive examination into the legislative history of the statute, set forth in much detail at pages 118 through 123 of the *Barenblatt* opinion.

It would seem to us elementary that a criminal statute must be clear on its face and that legislative history may not be summoned to the assistance of the prosecution to clarify or (as in the instant case) to expand its meaning. To hold otherwise would be to require every person called before a committee to engage in legislative research so that he might reach an estimate as to what the Legislature meant to say instead of relying on what it actually said. Such an application of law is a violation of the Due Process Clause of the Fifth Amendment. *Winters* v. *New York*, 333 U.S. 507.

Point IV

The Committee Has No Genuine Legislative Purpose

In the brief submitted by the appellant, extensive ma-
[fol. 318] terial was set forth in support of appellant's contention that this Committee has no genuine legislative purpose. This view is not held solely by appellant. See, for example, editorial in the New York Herald Tribune, February 23, 1961; speech by Congressman James Roosevelt in the House of Representatives on April 25, 1960; "The Congressional Pillory", by Frank J. Donner, The Nation, Feb. 18, 1961.

This Court answered appellant's contention by reference to the Committee's self-serving statement that it did have a legislative purpose. The Committee always claims to have a legislative purpose; the publicly recorded facts, however, proclaim the contrary. In the past ten years the Committee has had only a handful of bills referred to it; not one of its bills has passed the Congress since 1950. The very investigation to which we are referring (now three years in the past) did not result in legislation or even in proposed legislation. In view of this record, certainly a Court should pierce the facade of legitimacy that this Committee has erected and should appraise its purpose realistically in a case in which the liberty of appellant is at stake.

Respectfully submitted.

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Attorneys for Appellant

March 1, 1961

[fol. 319] Clerk's Certificate to foregoing paper omitted in printing.

[fol. 320]

IN UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

• • • •

Before

Hon. ELMER J. SCHNACKENBERG, *Circuit Judge*
Hon. WIN G. KNOCH, *Circuit Judge*
Hon. LATHAM CASTLE, *Circuit Judge*

No. 13097

UNITED STATES OF AMERICA, PLAINTIFF-APPELLEE

vs.

EDWARD YELLIN, DEFENDANT-APPELLANT

Appeal from the United States District Court
for the Northern District of Indiana,
Hammond Division

ORDER DENYING PETITION FOR REHEARING—April 3, 1961

IT IS ORDERED by the Court that the petition for a rehearing of this cause be, and the same is hereby, DENIED.

[fol. 321] Clerk's Certificate to foregoing transcript omitted in printing

[fol. 322]

SUPREME COURT OF THE UNITED STATES

No. 477, October Term, 1961

EDWARD YELLIN, PETITIONER

vs.

UNITED STATES

ORDER RESTORING CASE FOR REARGUMENT—June 25, 1962

This case is restored to the calendar for reargument.

Mr. Justice Frankfurter took no part in the consideration or decision of this order.

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